

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DAVID COBB,)
)
Petitioner,)
)
v.) CAUSE NO. 3:14-CV-1919
)
)
SUPERINTENDENT,)
)
Defendant.)

OPINION AND ORDER

This matter is before the Court on the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, filed by Petitioner, David Cobb, a *pro se* prisoner, on September 24, 2014. For the reasons set forth below, this petition (DE 1) is **DISMISSED WITHOUT PREJUDICE**.

BACKGROUND

Petitioner, David Cobb, has filed a habeas corpus petition attempting to challenge his recent conviction for an undisclosed criminal offense in the St. Joseph County Circuit Court under cause number 71C01-1406-PO-935. Mr. Cobb was convicted on August 28, 2014, and is currently incarcerated at the St. Joseph County Jail. Mr. Cobb states that he has not presented any of his claims for review in the state courts prior to filing the instant petition.

DISCUSSION

Before a petitioner can challenge a state proceeding, he must have previously presented his claims to the state courts. "This means that the petitioner must raise the issue at each and every level in the state court system, including levels at which review is discretionary rather than mandatory." *Lewis v. Sternes*, 390 F.3d 1019, 1025-1026 (7th Cir. 2004). Simply put, Mr. Cobb must appeal his conviction through the Indiana Court of Appeals and then ask the Indiana Supreme Court to take the case.

Here, based on his petition, it is clear that Mr. Cobb has not yet done this. Mr. Cobb admits that he has not appealed his conviction to any state courts. Because Mr. Cobb has not presented his claims to the state courts, this court may not grant him habeas corpus relief. 28 U.S.C. § 2254(b)(1)(A). Therefore, the petition will be dismissed, but the dismissal will be without prejudice to his right to pursue federal habeas relief once he exhausts his available state court remedies.

CONCLUSION

For the foregoing reasons, this petition (DE 1) is **DISMISSED WITHOUT PREJUDICE.**

DATED: September 30, 2014

/s/ RUDY LOZANO, Judge
United States District Court